

Todd M. Friedman (SBN 216752)
Adrian R. Bacon (SBN 280332)
LAW OFFICES OF TODD M. FRIEDMAN, P.C.
324 S. Beverly Dr., #725
Beverly Hills, CA 90212
Phone: 877-206-4741
Fax: 866-633-0228
tfriedman@attorneysforconsumers.com
abacon@attorneysforconsumers.com

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

GAYLA SHELBY, on behalf of himself)	Case No.
and all others similarly situated,)
) <u>CLASS ACTION</u>
Plaintiff,)
) COMPLAINT FOR VIOLATIONS
vs.) OF:
)
TWO JINNS, INC. DBA ALADDIN) 1. VIOLATIONS OF
BAIL BONDS) ELECTRONIC FUNDS
) TRANSFER ACT [15 U.S.C.
) §1693 ET SEQ.]
Defendants.)
) <u>DEMAND FOR JURY TRIAL</u>
)

Plaintiff GAYLA SHELBY ("Plaintiff"), on behalf of himself and all others similarly situated, alleges the following against Defendant TWO JINNS, INC. DBA ALADDIN BAIL BONDS upon information and belief based upon personal knowledge:

INTRODUCTION

1. Plaintiff's Class Action Complaint is brought pursuant to the

1 Electronic Funds Transfer Act, 15 U.S.C. 1693 et seq. (“EFTA”).

2 2. Plaintiff, individually, and on behalf of all others similarly situated,
3 brings this Complaint for damages, injunctive relief, and any other available legal
4 or equitable remedies, resulting from the illegal actions of Defendants debiting
5 Plaintiff’s and also the putative Class members’ bank accounts on a recurring
6 basis without obtaining a written authorization signed or similarly authenticated
7 for preauthorized electronic fund transfers from Plaintiff’s and also the putative
8 Class members’ accounts, thereby violating Section 907(a) of the EFTA, 15
9 U.S.C. § 1693e(a), and Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b).
10 Plaintiff alleges as follows upon personal knowledge as to himself and his own
11 acts and experiences, and, as to all other matters, upon information and belief,
12 including investigation conducted by his attorneys.

13 **JURISDICTION AND VENUE**

14 3. This Court has jurisdiction under 28 U.S.C. 1331, because this action
15 is brought pursuant to the EFTA, 15 U.S.C. 1693 *et seq.*

16 4. Jurisdiction of this Court arises pursuant to 15 U.S.C. 1693(m),
17 which states that, “without regard to the amount in controversy, any action under
18 this section may be brought in any United States district court.”

19 5. Venue and personal jurisdiction in this District are proper pursuant to
20 28 U.S.C. 1391(b) because Plaintiff resides within this District and Defendants do
21 or transact business within this District, and a material portion of the events at
22 issue occurred in this District.

23 **PARTIES**

24 6. Plaintiff, Gayla Shelby (“PLAINTIFF”), is a natural person residing
25 in Los Angeles County in the state of California, and is a “consumer” as defined
26 by the FDCPA, 15 U.S.C. §1692a(3) and is a “debtor” as defined by Cal Civ
27 Code §1788.2(h).
28

1 7. At all relevant times herein, DEFENDANT, Two Jinns, Inc.
2 (“DEFENDANT”), which does business as Aladdin Bail Bolds, was a company
3 engaged, by use of the mails and telephone, in the business of collecting a debt
4 from PLAINTIFF which qualifies as a “debt,” as defined by 15 U.S.C.
5 §1692a(5), and a “consumer debt,” as defined by Cal Civ Code §1788.2(f).
6 DEFENDANT regularly attempts to collect debts alleged to be due another, and
7 therefore is a “debt collector” as defined by the RFDCPA, Cal Civ Code
8 §1788.2(c).

9 8. Defendants acted through their agents, employees, officers,
10 members, directors, heirs, successors, assigns, principals, trustees, sureties,
11 subrogees, representatives, and insurers.

12 **FACTUAL ALLEGATIONS - EFTA**

13 9. In or around November, 2013, Plaintiff entered into a written
14 agreement with Defendant.

15 10. Starting on or around June, 2014, Plaintiff was contacted by
16 Defendant by letter and telephone phone, in relation to an alleged debt stemming
17 from the parties’ written agreement. In or about June 2014, Defendant’s agents
18 began repeatedly contacting Plaintiff, and Plaintiff’s daughter at work,
19 threatening to garnish their wages if Plaintiff did not make payments on the
20 alleged debt stemming from the parties’ written agreement.

21 11. Defendant’s agent informed Plaintiff that she should pay off the
22 account by credit card or bank card.

23 12. Plaintiff provided Defendant’s agent with her debit card number.

24 13. Defendant subsequently began automatically withdrawing \$150.00
25 per month from Plaintiff’s account. Plaintiff was never informed that her
26 financial information would be retained for future automatic payments.

27 14. In or around June of 2014, Plaintiff began to notice monthly re-
28

1 occurring charges being automatically deducted from his personal banking
2 account by Defendant.

3 15. After some investigation, Plaintiff discovered that Defendants were
4 deducting sums from her account, on a regular basis, in order to make payments
5 towards the debt Plaintiff allegedly owe, stemming from the parties' written
6 agreement.

7 16. Defendant's automatic withdrawals caused an overdraft on
8 Plaintiff's bank account, causing her actual injury in the forms of additional fees.

9 17. Plaintiff contacted her bank to stop the unlawful and unauthorized
10 automated payments.

11 18. Plaintiff never provided Defendants with any authorization to deduct
12 any sums of money on a regular recurring basis from Plaintiff's banking account.
13 Defendants continued to deduct this monthly sum from Plaintiff for several
14 months without Plaintiff's authorization. Such unauthorized debits from
15 Plaintiff's bank account by Defendant continued until at least August, 2014.
16

17 19. Further, Defendants did not provide to Plaintiff, nor did Plaintiff
18 execute, any written or electronic writing memorializing or authorizing the
19 recurring or automatic payments.

20 20. Plaintiff did not provide Defendants either with a written or an
21 electronic signature authorizing the recurring or automatic payments.

22 21. Plaintiff alleges such activity to be in violation of the Electronic
23 Funds Transfer Act, 15 U.S.C. 1693 et seq. ("EFTA"), and its surrounding
24 regulations, including, but not limited to, 12 C.F.R. §§1005.7, 1005.8, and
25 1005.9.

26 **CLASS ACTION ALLEGATIONS**

27 22. Plaintiff brings this action on behalf of herself and all others
28 similarly situated, as a member of the proposed class (hereafter "The Class")

1 defined as follows:

2 All persons in the United States whose bank accounts
3 were debited on a reoccurring basis by Defendants
4 without Defendants obtaining a written authorization
5 signed or similarly authenticated for preauthorized
6 electronic fund transfers within the one year prior to the
7 filing of this Complaint.

8 23. Plaintiff represents, and is a member of, The Class, consisting of all
9 persons within the United States whose bank account was debited on a recurring
10 basis by Defendants without Defendants obtaining a written authorization signed
11 or similarly authenticated for preauthorized electronic fund transfers within the
12 one year prior to the filing of this Complaint.

13 24. Defendants, their employees and agents are excluded from The
14 Class. Plaintiffs do not know the number of members in The Class, but believe
15 the Class members number in the hundreds, if not more. Thus, this matter should
16 be certified as a Class Action to assist in the expeditious litigation of the matter.

17 25. The Class is so numerous that the individual joinder of all of its
18 members is impractical. While the exact number and identities of The Class
19 members are unknown to Plaintiff at this time and can only be ascertained
20 through appropriate discovery, Plaintiff is informed and believes and thereon
21 alleges that The Class includes hundreds, if not thousands, of members. Plaintiff
22 alleges that The Class members may be ascertained by the records maintained by
23 Defendants.

24 26. This suit is properly maintainable as a class action pursuant to Fed.
25 R. Civ. P. 23(a) because the Class is so numerous that joinder of the Class
26 members is impractical and the disposition of their claims in the class action will
27 provide substantial benefits both to the parties and to the Court.

28 27. There are questions of law and fact common to the Class affecting

1 the parties to be represented. The questions of law and fact to the Class
2 predominate over questions which may affect individual Class members and
3 include, but are not necessarily limited to, the following:

4 a. The members of the Class entered into agreements with Defendant
5 sto have automatic, or recurring, electronic payments drawn from their personal
6 accounts to be paid to Defendants towards settlement of the Class members'
7 alleges services received by Defendants.

8 b. The members of the Class were not provided with, nor did they
9 execute, written agreements memorializing the automatic or recurring electronic
10 payments.

11 c. Defendants did not request, nor did it provide, Class members with
12 written agreements memorializing the automatic or recurring electronic
13 payments.

14 d. The members of the Class did not provide either a written ("wet") or
15 otherwise electronic signature authorizing the automatic or recurring electronic
16 payments.

17 e. Despite not providing written or electronic authorization for
18 payments to be drawn from their accounts, Defendants took unauthorized
19 payments from Class members' accounts.

20 28. As someone whose bank account was debited on a reoccurring basis
21 by Defendants without Defendants obtaining a written authorization signed or
22 similarly authenticated for preauthorized electronic fund transfers, Plaintiff is
23 asserting claims that are typical of The Class.

24 29. Plaintiff will fairly and adequately protect the interests of the
25 members of The Class. Plaintiff has retained attorneys experienced in the
26 prosecution of class actions.

27 30. A class action is superior to other available methods of fair and
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1 efficient adjudication of this controversy, since individual litigation of the claims
2 of all Class members is impracticable. Even if every Class member could afford
3 individual litigation, the court system could not. It would be unduly burdensome
4 to the courts in which individual litigation of numerous issues would proceed.
5 Individualized litigation would also present the potential for varying, inconsistent,
6 or contradictory judgments and would magnify the delay and expense to all
7 parties and to the court system resulting from multiple trials of the same complex
8 factual issues. By contrast, the conduct of this action as a class action presents
9 fewer management difficulties, conserves the resources of the parties and of the
10 court system, and protects the rights of each Class member.

11
12 31. The prosecution of separate actions by individual Class members
13 would create a risk of adjudications with respect to them that would, as a practical
14 matter, be dispositive of the interests of the other Class members not parties to
15 such adjudications or that would substantially impair or impede the ability of such
16 non-party Class members to protect their interests.

17 32. Defendants have acted or refused to act in respects generally
18 applicable to The Class, thereby making appropriate final and injunctive relief
19 with regard to the members of the Class as a whole.

20 33. Defendants failed to comply with the writing and notice
21 requirements of § 907(a) of the EFTA, 15 U.S.C. § 1693e(a) as to the Class
22 members with respect to the above alleged transactions.

23 34. Section 907(a) of the EFTA, 15 U.S.C. §1693e(a), provides that a
24 “preauthorized electronic fund transfer from a consumer’s account may be
25 authorized by the consumer only in writing, and a copy of such authorization
26 shall be provided to the consumer when made.”

27 35. Section 903(9) of the EFTA, 15 U.S.C. § 1693a(9), provides that the
28 term “preauthorized electronic fund transfer” means “an electronic fund transfer

1 authorized in advance to recur at substantially regular intervals.”

2 36. Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b), provides
3 that “[p]reauthorized electronic fund transfers from a consumer’s account may be
4 authorized only by a writing signed or similarly authenticated by the consumer.
5 The person that obtains the authorization shall provide a copy to the consumer.”

6 37. Section 205.10(b) of the Federal Reserve Board's Official Staff
7 Commentary to Regulation E, 12 C.F.R. § 205.10(b), Supp. I, provides that “[t]he
8 authorization process should evidence the consumer’s identity and assent to the
9 authorization.” *Id.* at ¶10(b), comment 5. The Official Staff Commentary further
10 provides that “[a]n authorization is valid if it is readily identifiable as such and
11 the terms of the preauthorized transfer are clear and readily understandable.” *Id.*
12 at ¶10(b), comment 6.

13 38. In multiple instances, Defendants debited bank accounts of the Class
14 members on a recurring basis without obtaining a written authorization signed or
15 similarly authenticated by the respective Class members for preauthorized
16 electronic fund transfers from the accounts of the respective Class members,
17 thereby violating § 907(a) of the EFTA, 15 U.S.C. § 1693e(a), and Section
18 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b).

19 39. In multiple instances, Defendants debited Class members’ bank
20 accounts on a recurring basis without providing a copy of a written authorization
21 signed or similarly authenticated by the respective Class members for
22 preauthorized electronic funds transfers, thereby violating Section 907(a) of the
23 EFTA, 15 U.S.C. § 1693e(a), and Section 205.10(b) of Regulation E, 12 C.F.R. §
24 205.10(b).

25 40. Pursuant to Fed. R. Civ. P. 23, a class action is appropriate and
26 preferable because, on information and belief, the putative class consists of
27 hundreds, if not thousands, of individuals and is so numerous that joinder of all
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1 putative class members, whether otherwise required or permitted, is
2 impracticable. The actual number of putative class members is in the exclusive
3 control of Defendant.

4 41. Pursuant to Fed. R. Civ. P. 23, a class action is appropriate and
5 preferable, because Plaintiff will fairly and adequately protect the interests of the
6 Class and Plaintiff has hired counsel able and experienced in class action
7 litigation.

8 42. Pursuant to Fed. R. Civ. P. 23(b)(3), class certification is appropriate
9 because this Court and the parties would enjoy economies in litigating common
10 issues on a class-wide basis instead of a repetitive individual basis.

11 43. Pursuant to Fed. R. Civ. P. 23(b)(3), class certification is appropriate
12 because the size of each putative class member's actual damages is too small to
13 make individual litigation an economically viable option.

14 44. Pursuant to Fed. R. Civ. P. 23(b)(3), class certification is appropriate
15 because no unusual difficulties will likely occur in the management of the Class
16 as all questions of law or fact to be litigated at the liability stage are common to
17 the putative class and all compensatory relief is concomitant with a liability
18 finding and can be calculated by automated and objective means.

19 45. The size and definition of the Class can be identified through
20 Defendant's records and/or Defendant's agents' records.
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22
23 **COUNT I:**
24 **DEFENDANTS VIOLATED THE ELECTRONIC FUNDS TRANSFER**
25 **ACT**
26 **(On Behalf of Plaintiff and the Class)**

27 46. Section 907(a) of the EFTA, 15 U.S.C. §1693e(a), provides that a
28 "preauthorized electronic fund transfer from a consumer's account may be
authorized by the consumer only in writing, and a copy of such authorization

1 shall be provided to the consumer when made.”

2 47. Section 903(9) of the EFTA, 15 U.S.C. § 1693a(9), provides that the
3 term “preauthorized electronic fund transfer” means “an electronic fund transfer
4 authorized in advance to recur at substantially regular intervals.”

5 48. Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b), provides
6 that “[p]reauthorized electronic fund transfers from a consumer’s account may be
7 authorized only by a writing signed or similarly authenticated by the consumer.
8 The person that obtains the authorization shall provide a copy to the consumer.”

9 49. Section 205.10(b) of the Federal Reserve Board's Official Staff
10 Commentary to Regulation E, 12 C.F.R. § 205.10(b), Supp. I, provides that “[t]he
11 authorization process should evidence the consumer’s identity and assent to the
12 authorization.” *Id.* at ¶10(b), comment 5. The Official Staff Commentary further
13 provides that “[a]n authorization is valid if it is readily identifiable as such and
14 the terms of the preauthorized transfer are clear and readily understandable.” *Id.*
15 at ¶10(b), comment 6.

16 50. In multiple instances, Defendants have debited Plaintiff’s and also
17 the putative Class members’ bank accounts on a recurring basis without obtaining
18 a written authorization signed or similarly authenticated for preauthorized
19 electronic fund transfers from Plaintiff’s and also the putative Class members’
20 accounts, thereby violating Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a),
21 and Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b).

22 51. In multiple instances, Defendants have debited Plaintiff’s and also
23 the putative Class members’ bank accounts on a recurring basis without providing
24 a copy of a written authorization signed or similarly authenticated by Plaintiff or
25 the putative Class members for preauthorized electronic fund transfers, thereby
26 violating Section 907(a) of the EFTA, 15 U.S.C. § 1693e(a), and Section
27 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b).
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